IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WP(C).No. 20335 of 2007(U)

OS.125/2002 of PRINCIPAL SUB COURT, PALAKKAD

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PETITIONER:

RAMAKRISHNAN, AGED 66 YEARS,
S/O. KRISHNANKUTTY VAIDYAR, PULIKKOTTIL HOUSE,
NEAR THANKAM THEATRE, VADAKKENCHERRY,ALATHUR TALUK
PALAKKAD.

BY ADV. SRI.RENJITH THAMPAN

RESPONDENTS:

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1. ANITHA, W/O. K.K. MURALEEDHARAN,
618 F, RAILWAY QUARTERS, OLAVAKKODE, PALAKKAD.

2. MANOJ, S/O. RAMAKRISHNAN,
THOPPIL HOUSE, ELANAD POST, CHELAKKARA,
PAZHAYANNUR AMSOM & DESOM, THALAPPILLIL TALUK,
THRISSUR DISTRICT.

3. SUSMITHA, W/O. PREM PRAKASH,
POTTARAYIL HOUSE, EZHAKKAD, VELIKKAD,
MUNDUR, PALAKKAD.

4. DINESH, S/. RAMAKRISHNAN,
INST. FOREMAN, EMP NO.5957, KHARAFI NATIONAL,
P.B.NO.3086, BLOCK NO.059/03, ANDALLY CAMP,
JEHRA 1082, KUWAIT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No. 20335 OF 2007 U

Dated this the 3rd July, 2007.

JUDGMENT

This writ petition is filed seeking to set aside the order passed by the Subordinate Judge, Palakkad in I.A.2669/02 in O.S.125/02. The suit is one for declaration, partition etc. Now the plaintiff wants to incorporate two more items of properties as available for division of which item 1 is having an extent of 42 cents and item 2 having an extent of 10 cents. The contesting defendant did not have any objection in incorporating 42 cents of property but there is objection with respect of 10 cents of property on the ground that it is a self acquired property and it is not available for division. On the contra the plaintiff would contend that the said property is acquired with the funds of the tavazhy or the mother and therefore it is available for division. By incorporating a prayer in the plaint it does not mean that it belongs to as contended. It is a point that has to be adjudicated and decided by the court after permitting the parties to produce documents and adduce evidence. Therefore, by allowing the amendment application it will not cause any difficulty at this stage. Therefore, the order under challenge is confirmed but it is made clear that the

contesting defendant can file additional statement and raise all contentions and the court shall consider the same. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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